



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Bevilacqua, et al

Atty Docket: 2331/112

Serial No.: 09/821,850

Art Unit: 1631

Date Filed: March 29, 2001

Examiner: Allen, M. P.

Invention: Systems and Methods for  
Characterizing a Biological Condition  
Or Agent Using Calibrated Gene  
Expression Profiles

Date: September 18, 2002

Commissioner for Patents  
Washington, DC 20231

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Plunkett  
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**RESPONSE A**

Dear Sir:

In response to the office action mailed August 21, 2002, please amend the application as set forth below.

In the description

Please amend the description of the application in the manner as set forth in the substitute specification (without claims), which is enclosed and hereby submitted pursuant to 37 C.F.R. § 1.121(b)(3). The substitute specification is provided in two versions, one of which is marked to show all amendments and one of which is a clean copy.

Amendments to the description, implemented by the substitute specification, are as follows:

(i) In the definitions, appearing at the beginning of the Detailed Description, the term "panel" is substituted for the term "profile" after the word "precision" in the original application,

page 18, line 23. This amendment removes an obvious error in the application wherein the term “precision profile” is defined circularly as a “precision profile” with certain further characteristics. A person of ordinary skill in the art reading the application would understand that the term “precision profile” would need to be defined in relation to a “precision panel” that was just defined in the preceding sentence of the same paragraph. This interpretation is consistent with and supported by the definitions of the immediately following paragraph, which mirrors the paragraph in question, by defining “signature profile” and “signature panel” as subsets of a “precision profile” and a “precision panel” respectively. Finally, the concept of a “profile” as being a set of values associated with constituents of a “panel” as required by the definition as amended is further supported throughout the original application, as for example, page 19, lines 3-16 (“the signature panel giving rise to a signature profile”), page 22, lines 4-34, especially 11-13 (“Rather it is desired to obtain from the precision panel an expression profile that discriminates consistently with respect to the targeted physiological or biological condition”), page 24, lines 5-24 (signature panel illustrated on the basis of section from a precision panel, yielding a signature profile), etc. Accordingly, no new matter is introduced by correcting the application as provided by this amendment.

(ii) Throughout the application, there is substituted, for the word “precision”, the word “selected” whenever “precision” precedes any of the words “panel” or “profile” or their plurals.

Support for this amendment appears in the original application, among other places, in the definition of “precision panel” as one wherein constituents are “selected” to meet criteria in the definition. Application, p. 18, line 22. See also, for example, page 22, lines 4-34 and



Practitioner's Docket No. 2331/112US

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Michael P. Bevilacqua, et al.

Application No.: 09/821,850

Group No.: 1631

Filed: 03/29/2001

Examiner: Allen, M.P.

For: Systems and Methods for Characterizing a Biological Condition or Agent Using Calibrated Expression Profiles

Commissioner for Patents  
Washington, D.C. 20231

AMENDMENT TRANSMITTAL

1. Transmitted herewith is an amendment for this application, including substitute specification (without claims).

STATUS

2. Applicant is a small entity. A statement was already filed.

EXTENSION OF TERM

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply. Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

**CERTIFICATION UNDER 37 C.F.R. §§ 1.8(a) and 1.10\***

(When using Express Mail, the Express Mail label number is mandatory;  
Express Mail certification is optional.)

I hereby certify that, on the date shown below, this correspondence is being:

MAILING

☒ deposited with the United States Postal Service in an envelope addressed to the Commissioner for Patents, Washington D.C. 20231

37 C.F.R. § 1.8(a)

37 C.F.R. § 1.10\*

☒ with sufficient postage as first class mail.

☐ as "Express Mail Post Office to Addressee"

Mailing Label No. \_\_\_\_\_ (mandatory)

TRANSMISSION

☐ facsimile transmitted to the Patent and Trademark Office, (703) \_\_\_\_\_

Signature

Date: September 18, 2002

Bruce D. Sunstein

(type or print name of person certifying)

\* Only the date of filing (§ 1.6) will be the date used in a patent term adjustment calculation, although the date on any certificate of mailing or transmission under § 1.8 continues to be taken into account in determining timeliness. See § 1.703(f). Consider "Express Mail Post Office to Addressee" (§ 1.10) or facsimile transmission (§ 1.6(d)) for the reply to be accorded the earliest possible filing date for patent term adjustment calculations.

#### **FEE FOR CLAIMS**

4. The fee for claims (37 C.F.R. 1.16(b)-(d)) has been calculated as shown below:

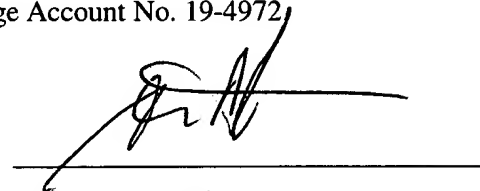
No additional fee for claims is required.

#### **FEE DEFICIENCY**

5. An additional extension and/or fee is required, charge Account No. 19-4972.

An additional fee for claims is required, charge Account No. 19-4972,

Date: September 18, 2002



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